



U.S. Department of Justice
United States Attorney
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May 13, 2025

The Honorable André M. Espinosa
United States Magistrate Judge
Martin Luther King, Jr. Building
Newark, New Jersey 07102

United States v. Ras Baraka 2025-MJ-11131

Dear Judge Espinosa:

The Government writes with respect to the upcoming preliminary hearing scheduled for Thursday, May 12, 2025. The Government does not believe that a preliminary hearing is warranted in this case. Under Fed. R. Crim. P. 5.1(a), “[i]f a defendant is charged with an offense *other than a petty offense*, a magistrate judge must conduct a preliminary hearing unless” certain conditions are satisfied. Fed. R. Crim. P. 5.1(a) (emphasis added). Here, the charge is a petty offense. Under state law, assimilated under 18 U.S.C. § 13, the statutory maximum sentence is 30 days. That means the offense is a class C misdemeanor under federal law. *See* 18 U.S.C. § 3559(a). That, in turn, means that it’s a “petty offense” under federal law. *See* 18 U.S.C. § 19. Defendant, therefore, is not entitled to a preliminary hearing under Rule 5.1. *See United States v. Radin*, No. 16 Cr. 528, 2017 U.S. Dist. LEXIS 77783, 2017 WL 2226595 (S.D.N.Y. May 22, 2017).

The Government requests that the Court cancel the preliminary hearing and schedule this matter for trial at an appropriate time.

Respectfully submitted,

ALINA HABBA
United States Attorney

s/ Stephen J. Demanovich
By: Stephen J. Demanovich
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cc: Counsel of Record